

1 WILLIAM A. ISAACSON (*Pro hac vice*)
(wisaacson@bsfllp.com)
2 STACEY K. GRIGSBY (*Pro hac vice*)
(sgrigsby@bsfllp.com)
3 NICHOLAS A. WIDNELL (*Pro hac vice*)
(nwidnell@bsfllp.com)
4 BOIES SCHILLER FLEXNER LLP
1401 New York Avenue, NW, Washington, DC 20005
5 Telephone: (202) 237-2727; Fax: (202) 237-6131

6 RICHARD J. POCKER #3568
(rpocker@bsfllp.com)
7 BOIES SCHILLER FLEXNER LLP
300 South Fourth Street, Suite 800, Las Vegas, NV 89101
8 Telephone: (702) 382-7300; Fax: (702) 382-2755

9 DONALD J. CAMPBELL #1216
(djcc@campbellandwilliams.com)
10 J. COLBY WILLIAMS #5549
(jcw@campbellandwilliams.com)
11 CAMPBELL & WILLIAMS
700 South 7th Street, Las Vegas, NV 89101
12 Telephone: (702) 382-5222; Fax: (702) 382-0540

13 *Attorneys for Defendant Zuffa, LLC, d/b/a*
14 *Ultimate Fighting Championship and UFC*

16 UNITED STATES DISTRICT COURT

17 DISTRICT OF NEVADA

18 Cung Le, Nathan Quarry, Jon Fitch, Brandon
19 Vera, Luis Javier Vazquez, and Kyle
Kingsbury on behalf of themselves and all
20 others similarly situated,

21 Plaintiffs,

22 v.

23 Zuffa, LLC, d/b/a Ultimate Fighting
Championship and UFC,

24 Defendant.

Case No.: 2:15-cv-01045-RFB-(PAL)

**DEFENDANT ZUFFA, LLC'S
MOTION FOR LEAVE TO FILE
NOTICE OF SUPPLEMENTAL
AUTHORITY REGARDING
ZUFFA'S MOTION TO EXCLUDE
TESTIMONY OF DR. SINGER
(ECF NO. 524).**

NOTICE OF MOTION AND MOTION

Defendant Zuffa, LLC (“Zuffa”) hereby moves pursuant to Local Rule 7-2(g) for leave to file the attached Notice of Supplemental Authority Regarding Zuffa’s Motion to Exclude the Testimony of Dr. Singer (ECF No. 524). This Motion is based on this Notice of Motion, the Memorandum of Points and Authorities incorporated herein; the attached exhibits; the entire record in this action; and other such matters and argument as may be presented to the Court.

MEMORANDUM OF POINTS AND AUTHORITIES

The Supreme Court decided *Ohio v. American Express Co.*, -- S. Ct. --, 2018 WL 3096305 on June 25, 2018. As explained in Zuffa’s proposed Notice of Supplemental Authority, this decision clarified that in light of the procompetitive benefits of certain vertical restraints, a plaintiff must define a relevant market to evaluate the anticompetitive effect of an alleged vertical restraint even when using direct evidence. *Id.* *8 n.7. Plaintiffs argue in their Opposition to the Singer *Daubert* motion that defining a relevant market is unnecessary when evidence of direct effects on compensation is presented. Accordingly, *Amex* will inform this Court’s decision on whether to grant Zuffa’s Motion to Exclude the testimony of Dr. Singer in light of this new development in the law that affects the currently pending motion. Plaintiffs are not prejudiced by this filing, as this additional legal authority was unavailable prior to the *Daubert* briefing, Plaintiffs will receive timely notice through this filing, and Zuffa has not delayed in presenting this authority to the Court or Plaintiffs.

Zuffa’s proposed Notice of Supplemental Authority complies with the guidelines set forth in *F.D.I.C. v. Johnson*, 2014 WL 5324057, at *2 (D. Nev. Oct. 17, 2014) (“Such notice will include the relevant citation, with the full text of the opinion appended. The body of the notice will be no longer than three pages, explaining briefly how it relates to the pleadings or motions currently before the Court”).

1 Dated: July 5, 2018

Respectfully Submitted,

2 BOIES SCHILLER FLEXNER LLP

3
4 By: /s/ Nicholas A. Widnell

5 Nicholas A. Widnell

6 *Attorneys for Defendant Zuffa, LLC, d/b/a*
7 *Ultimate Fighting Championship and UFC*

8
9
10
11
12 **CERTIFICATE OF SERVICE**

13
14 The undersigned hereby certifies that the foregoing **Zuffa's Motion for Leave to File**
15 **Notice of Supplemental Authority** was served on July 5, 2018 via the Court's CM/ECF
16 electronic filing system addressed to all parties on the e-service list.

17
18
19 /s/ Roderick Crawford

20 An employee of Boies Schiller Flexner